

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

RODERICK O. FONSECA,

Plaintiff,

v.

P. COLIO, et al.,

Defendants.

No. C 11-6580 JSW (PR)

ORDER OF TRANSFER

Plaintiff, a California prisoner incarcerated at Calipatria State Prison (“Calipatria”), has filed this pro se civil rights complaint under 42 U.S.C. § 1983 against Calipatria officials based upon events occurring there.

When, as here, jurisdiction is not founded solely on diversity, venue is proper in the district in which (1) any defendant resides, if all of the defendants reside in the same state, (2) the district in which a substantial part of the events or omissions giving rise to the claim occurred, or a substantial part of property that is the subject of the action is situated, or (3) a judicial district in which any defendant may be found, if there is no district in which the action may otherwise be brought. 28 U.S.C. § 1391(b). Where a case is filed in the wrong venue, the district court has the discretion either to dismiss the case or transfer it to the proper federal court “in the interest of justice.” 28 U.S.C. § 1406(a). Venue may be raised by the court *sua sponte* where the defendant has not yet filed a responsive pleading and the time for doing so has not run. *Costlow v. Weeks*, 790 F.2d 1486, 1488 (9th Cir. 1986).

Plaintiff’s claims arise out of events occurring at Calipatria, where Defendants are

1 located. Calipatria is in Imperial County, which lies within the venue of the United
2 States District Court for the Southern District of California.

3 Accordingly, IT IS ORDERED in the interest of justice, and pursuant to 28 U.S.C.
4 § 1406(a), that this action be TRANSFERRED to the United States District Court for the
5 Southern District of California.

6 The Clerk of the Court shall transfer this matter forthwith.

7 IT IS SO ORDERED.

8 DATED: 2/3/12

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10 JEFFREY S. WHITE
11 United States District Judge
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